

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Daniel Michael Bragg, #15432,)	
)	C/A No. 2:11-0961-MBS
Plaintiff,)	
)	
vs.)	
)	O R D E R
Henry Dargan McMaster, South Carolina)	
Attorney General; Greg Mullen, Chief,)	
Charleston Police Department, in their)	
individual capacities and/or in their)	
official capacities,)	
)	
Defendants.)	
)	

At the time of filing the complaint, Plaintiff Daniel Michael Bragg was housed at the Charleston County Detention Center in Charleston, South Carolina. Plaintiff, proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983, alleging that his constitutional rights were violated incident to his arrest on February 5, 2010 for possession of heroin.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling. The Magistrate Judge issued an order on April 27, 2011 instructing Plaintiff to keep the Clerk's Office apprised of any change in address. On June 3, 2011, the court issued an order adopting a Report and Recommendation of the Magistrate Judge that Defendant McMaster be dismissed without prejudice. On June 7, 2011, Plaintiff was notified by mail of a change of case number and reassignment of the case to Magistrate Judge Bristow Marchant. On June 8, 2011, the envelope containing Plaintiff's copy of the court's order adopting the Report and Recommendation was returned to the Office of the Clerk of Court, marked "RETURN - OOJ."

On June 10, 2011, the Magistrate Judge issued a Report and Recommendation in which he

noted that Plaintiff had been directed by order filed April 27, 2011 to keep the Clerk's Office apprised of any change in address, but had failed to do so. Accordingly, the Magistrate Judge recommended that the case be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). On June 15, 2011, the envelope containing Plaintiff's notice of the change of case number was returned to the Clerk's Office, marked "RETURN TO SENDER - OOJ." On June 21, 2011, the envelope containing Plaintiff's copy of the June 10, 2011 Report and Recommendation was returned to the Clerk's Office, marked "OOJ - NOT HERE."

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. It appears that Plaintiff has abandoned this action and failed to comply with an order of the court. The complaint is dismissed with prejudice pursuant to Rule 41(b).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina
July 14, 2011

NOTICE OF RIGHT TO APPEAL

**Plaintiff is hereby notified of the right to appeal this order
pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**